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URGENT CARE

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLSTATE INSURANCE COMPANY,
ALLSTATE PROPERTY & CASUALTY
INSURANCE COMPANY, ALLSTATE
INDEMNITY COMPANY, and ALLSTATE
FIRE & CASUALTY INSURANCE
COMPANY,

Plaintiffs,

vs.

RUSSELL J. SHAH, M.D.; DIPTI R. SHAH,
M.D.; RUSSELL J. SHAH, MD, LTD.; DIPTI
R. SHAH, MD, LTD.; and RADAR MEDICAL
GROUP, LLP dba UNIVERSITY URGENT
CARE, Does 1-100, and ROES 101-200,

Defendants.

AND RELATED CLAIMS.

Case No. 2:15-cv-01786-APG-CWH

**DEFENDANTS' MOTION FOR LEAVE
TO FILE UNDER SEAL EXHIBITS 43-
J AND 44-46 SUPPORTING
DEFENDANTS' MOTION TO
COMPEL PLAINTIFFS' RESPONSES
TO FIRST SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS AND
FIRST SETS OF INTERROGATORIES**

Defendants Russell J. Shah, M.D. (“Russell”); Dipti R. Shah, M.D. (“Dipti”); Radar Medical Group, LLP (“Radar Medical Group”); Russell J. Shah, MD, Ltd. (“Russell PC”); and Dipti R. Shah, MD, Ltd. (“Dipti PC”) (collectively, the “Radar Parties”) move this Court for leave to file under seal Exhibits 43-J and 44-46 in support of their Motion to Compel Plaintiffs’ Responses to First Set of Requests for Production of Documents and First Sets of Interrogatories [ECF No. 95] (the “Motion to Compel”).

This Motion is made and based on the papers and pleadings on file, the following Memorandum of Points and Authorities, and any argument heard by the Court.

DATED this 9th day of March, 2017.

BAILEY❖KENNEDY

By: /s/ Joshua P. Gilmore

DENNIS L. KENNEDY

JOSEPH A. LIEBMAN

JOSHUA P. GILMORE

*Attorneys for Defendants &
Counterclaimants*

MEMORANDUM OF POINTS AND AUTHORITIES

A party seeking to seal documents attached to a non-dispositive motion must identify “good cause” to do so in accordance with Fed. R. Civ. P. 26(c). *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). This is a less exacting standard than the “compelling reasons” standard for seeking to seal documents attached to a dispositive motion, because the “usual presumption of the public’s right of access” to dispositive motions “is rebutted.” *See id.* at 1178-80.

On March 9, 2017, the Radar Parties filed their Motion to Compel. The Radar Parties attached four exhibits to their Motion to Compel that qualify (or may qualify) for sealing: Exhibits 43-J and 44-46.

Exhibit 43-J is an excerpt of the Insurance Companies’ privilege log, while Exhibit 46 is an excerpt of their internal claims manual. The Insurance Companies designated these documents as “CONFIDENTIAL” pursuant to Section V of the Stipulated Confidentiality Agreement and Protective Order [ECF No. 39] (the “Protective Order”). As a result, the Radar Parties are required

1 to file them under seal, pursuant to Section X of the Protective Order, pending a response to this
 2 Motion to Seal from the Insurance Companies regarding the need, if any, to keep them under seal.

3 Exhibits 44-45 consist of reports generated by computer software programs known as
 4 DecisionPoint and Colossus utilized by the Insurance Companies when adjusting bodily injury
 5 claims. They describe medical treatment rendered to a patient purportedly at issue in this matter.
 6 Because the patient is a non-party, sealing these exhibits is warranted in order to protect that
 7 patient's privacy interests under the Health Insurance Portability and Accountability Act of 1996.¹
 8 *See, e.g., Brodsky v. Baca*, No. 3:14-cv-00641-RCJ-WGC, 2015 WL 6962867, at *1 (D. Nev. Nov.
 9 10, 2015) (recognizing that protecting medical privacy qualifies as a "compelling reason" to seal
 10 judicial records).

11 For these reasons, the Court should grant this Motion to Seal.

12 DATED this 9th day of March, 2017.

13 BAILEY ♦ KENNEDY

14 By: /s/ Joshua P. Gilmore

DENNIS L. KENNEDY

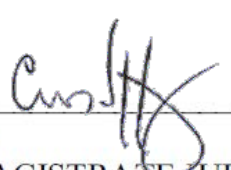
JOSEPH A. LIEBMAN

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16 *Attorneys for Defendants &*
 17 *Counterclaimants*

18 IT IS SO ORDERED.

19 DATED: April 4, 2017

20 
 21 C.W. HOFFMAN, JR.
 22 UNITED STATES MAGISTRATE JUDGE

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 28 ¹ On September 20, 2016, the Court entered an Order [ECF No. 67] sealing excerpts of claims notes for two other patients purportedly at issue in this matter because they contained "sensitive medical information of non-parties."

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 9th day of March 2017, service of the foregoing **DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBITS 43-J AND 44-46 SUPPORTING DEFENDANTS' MOTION TO COMPEL PLAINTIFFS' RESPONSES TO FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND FIRST SETS OF INTERROGATORIES** was made by mandatory electronic service through the United States District Court's electronic filing system and/or by emailing a true and correct copy to the following:

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